

Attorney Docket: 1830/50521
PATENT

REMARKS

Favorable consideration and allowance are respectfully requested for claims 35, 36, and 41-58 in view of the following remarks.

Claims 1-34 and 37-40 have been cancelled; claims 35 and 36 have been amended; and new claims 41-58 have been added. New claim 41 corresponds to original claim 3; new claims 42-45 correspond to original claims 10-13; new claims 46-57 correspond to original claims 22-33; and new claim 58 corresponds to original claim 34. No new matter has been added.

Applicants affirm their provisional election with traverse to prosecute the invention of Group II, claims 1-34 (in part) and the species of Compound No. 2 in Table 1.

In the Office Action dated May 7, 2003, claims 2 and 36 were objected to as depending from a rejected base claim; claims 5-21 and 26-33 were rejected under 35 U.S.C. § 112, first paragraph, as lacking enablement; claims 1, 3-9 and 14-18 were rejected under 35 U.S.C. § 102(a) as being anticipated by WO 01/10842 ("Maguire"); claims 1, 3-9 and 14-18 were rejected under 35 U.S.C. § 102(b) as being anticipated by Chem. Abstract 112:35878 (1990) ("Kolaczkowska") and GB 2082577 ("Frei"); claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by Chem. Abstract 87:179949 ("Kwok"); claims 1, 3-21, and 26-34 were rejected under 35 U.S.C. § 102(b) as being anticipated by Chem. Abstract 87:111268 ("Walker") and Chem. Abstract 77:70055 ("Upshall"); claims 22-25 were rejected under 35 U.S.C. § 102(a) as being anticipated by Maguire; claims 22-25 were rejected under 35 U.S.C.

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§ 102(b) as being anticipated by Kolaczkowska, Frei, Kwok, Walker, and Upshall; and claims 1, 3-9, 35 and 37-40 were rejected under 35 U.S.C. § 102(b) as being anticipated by WO 94/22851 ("Munro"). These rejections are respectfully traversed.

Rejection under 35 U.S.C. § 112, first paragraph

Claims 5-21 and 26-33 have been cancelled and the corresponding claims have omitted the term "preventing." Accordingly, withdrawal of the rejection is respectfully requested.

Rejections under 35 U.S.C. § 102

Claim 35, as amended, recites that the substituents A¹ and A² are "pyridine substituted with one or more of C₁-C₄ lower alkyl group or halogen atom." Therefore, the compounds disclosed in the applied prior art references are clearly different from the claimed compounds recited in the amended and new claims.

Regarding the rejection of claims as anticipated by Munro, the Examiner pointed out that "Example 4 is identical to the claimed compounds of formula (I) wherein A¹ is 6-chloro-3-pyridyl; A² is dichloronitromethyl and R⁷-R¹² are hydrogen." Office Action at 7. To the contrary, the claimed invention, as amended, requires that the substituents A¹ and A² are each a hydrogen atom, optionally substituted alkyl group wherein alkyl group is substituted with optionally substituted aryl group, or optionally substituted heterocyclic group. Thus, the definition A² does not include dichloronitromethyl of Example 4 of Munro.

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Accordingly, withdrawal of the rejection of claims 35 and 36 is respectfully requested.

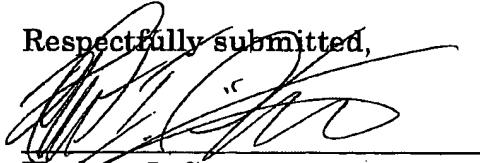
In view of the foregoing, the application is respectfully submitted to be in condition for allowance, and prompt favorable action thereon is earnestly solicited.

If there are any questions regarding this response or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response; please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #1830/50521).

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Respectfully submitted,


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